

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

DECEMBER 1996 SESSION

<p>FILED</p> <p>February 12, 1997</p> <p>Cecil W. Crowson Appellate Court Clerk</p>
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<p>DOYLE LEE HAMM, Appellant, V. STATE OF TENNESSEE, Appellee.</p>	<p>)) C.C.A. No. 01C01-9601-CC-00033)) Lawrence County)) Honorable Jim T. Hamilton, Judge)) (Post-Conviction, Habeas Corpus &) Writ of Error Coram Nobis))</p>
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OPINION FILED: _____

AFFIRMED

PAUL G. SUMMERS,
Judge

OPINION

The appellant, Doyle Lee Hamm, was indicted in 1977 for: burglary; three counts of first degree burglary; two counts of armed robbery; second degree burglary; grand larceny; carrying a deadly weapon; and larceny. Pursuant to a negotiated plea, he pled guilty to two counts of simple robbery in 1978. He was sentenced to five years on each count. Both sentences have been fully served. In 1992, the appellant petitioned for post-conviction relief. The trial court dismissed the petition as untimely. Upon review, we affirm.

The sole issue with which this Court is now faced is whether the trial judge erred in dismissing the appellant's petition.¹ The trial judge held that he was procedurally barred from granting relief. The judge found that: (1) the statute for post-conviction relief had run, Tenn. Code Ann. § 40-30-102 (1990) (repealed); and (2) habeas corpus was inapplicable because the appellant was neither imprisoned nor restrained of liberty.

We find no error of law mandating reversal. The trial judge's dismissal of the appellant's petition is affirmed in accordance with Tenn. R. Ct. Crim. App., Rule 20.

¹ The trial judge dismissed the petition procedurally. No hearing was held. That is the sole issue with which we are confronted. The appellant, however, has raised substantive issues in his brief which are not before this Court. Moreover, the appellant's brief cites to affidavits, facts and arguments not properly before this Court. The information is irrelevant to a procedural analysis. Inclusion was, therefore, both improper and inappropriate.

The appellant's claims are matters for post-conviction proceedings. The appellant cannot circumvent the post-conviction statute of limitations by simply labeling his motion a: (1) writ of habeas corpus, or (2) writ of error coram nobis.

PAUL G. SUMMERS, Judge

CONCUR:

WILLIAM M. BARKER, Judge

JOE G. RILEY, Judge